

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JANET SIMMONS,

Plaintiff,

v.

18-CV-746-LJV-MJR  
DECISION & ORDER

THE MAPLEWOOD GROUP, INC.,

Defendant.

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On April 17, 2018, the plaintiff, Janet Simmons, commenced this action in the Supreme Court of the State of New York, County of Erie. Docket Item 1-2. She alleges that as a result of the negligence of the defendant, The Maplewood Group, Inc., (“Maplewood”), she slipped and fell on ice at a shopping plaza and suffered personal injuries. *Id.* On July 5, 2018, Maplewood removed this action to this Court, Docket Item 1, and on August 8, 2018, this Court referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B), Docket Item 5.

On February 28, 2020, the defendant moved for summary judgment. Docket Item 22. After several extensions of time to respond to the defendant’s motion, Docket Items 25, 28, and 31, the plaintiff moved to extend the deadline to complete expert discovery, which had expired months earlier, Docket Item 33. On August 24, 2020, Judge Roemer granted the plaintiff’s motion for an extension of time to complete discovery, denied the defendant’s motion for summary judgment without prejudice, and

indicated that the defendant could refile a summary judgment motion after the completion of expert discovery. Docket Item 42.

On April 30, 2021, the defendant did just that and again moved for summary judgment, Docket Item 49; on June 8, 2021, the plaintiff responded, Docket Item 52; and on June 22, 2021, the defendant replied, Docket Item 53. On November 4, 2021, Judge Roemer issued a Report and Recommendation (“R&R”) finding that the defendant's motion should be denied. Docket Item 56. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Roemer's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Roemer's recommendation to deny the defendant's motion for summary judgment.

For the reasons stated above and in the R&R, the defendant's motion for summary judgment, Docket Item 49, is DENIED. **The parties shall contact the Court**

**within 30 days of the date of this order to schedule a status conference so that the Court can set a trial date.**

SO ORDERED.

Dated: December 13, 2021  
Buffalo, New York

**/s/ Lawrence J. Vilaro**  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE